

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7464

BILL NUMBER: HB 1956

DATE PREPARED: Feb 2, 2001

BILL AMENDED:

SUBJECT: Powerplant Siting.

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FUNDS AFFECTED:

X

**GENERAL
DEDICATED
FEDERAL**

IMPACT: State & Local

Summary of Legislation: The bill defines "facility" to mean a powerplant that:

- (1) generates electricity for the wholesale or retail market; and
- (2) has a generating capacity of at least 25 megawatts.

The bill prohibits a person from constructing a facility without first obtaining a siting certificate from the Indiana Utility Regulatory Commission (IURC). The bill requires the Attorney General to appoint a deputy to serve as counsel for the environment in a proceeding involving an application for a siting certificate. The bill requires the appointed deputy to hire an independent consultant to conduct a study on the environmental impact of the proposed facility. The bill requires the applicant to submit a fee of \$50,000 to be applied toward the cost of the study. The bill requires the IURC to hold a hearing on all applications for siting certificates. The bill specifies the conditions that an applicant must meet before the IURC may grant a siting certificate. It requires the holder of a siting certificate to obtain an amended siting certificate if the holder makes certain alterations to the facility or the operation of the facility. The bill requires a certificate holder to construct, operate, and maintain the facility in accordance with the certificate. The bill allows the IURC to monitor a facility for compliance. The bill also requires a certificate holder to submit an annual report to the IURC.

Effective Date: Upon passage.

Explanation of State Expenditures: *IURC:* This bill prohibits the construction, or significant alteration, of an electric powerplant that sells or would sell more than half of the power generated to consumers outside of Indiana without a certificate issued by the Indiana Utility Regulatory Commission (IURC). Upon receipt of an application for a siting certificate, the bill requires the IURC to conduct a hearing with the affected parties, local zoning or planning authorities, the Office of the Utility Consumer Counselor, and the counsel for the environment.

After the hearing and upon reviewing the evidence and testimony, the Commissioner could only issue the certificate if the following are found:

- 1) the facility meets the Commission's requirements for a certificate of public convenience and necessity,
- 2) the applicant receives the licenses or permits required by all concerned regulatory agencies,
- 3) the application complies with local planning and zoning standards,
- 4) the location is preferred over other options,
- 5) the construction and operation of the facility are in the public's interest,
- 6) the Commission determines that the facility will have no adverse effects on the use of nearby land, the surrounding environment, and the aesthetic quality of the area surrounding the site,
- 7) the applicant is willing to construct, operate, and maintain the facility under the certificate's standards; and
- 8) the applicant establishes proof of financial responsibility for the eventual closing costs of the facility.

The bill also allows the Commission to monitor a certified facility for compliance with the terms and conditions of the siting certificate.

Depending on the number of facilities that seek certification, this bill is expected to increase the administrative costs of the IURC. Any increase in the IURC's administrative costs is expected to be covered using existing staff and resources. (The bill also provides that a portion of the fee revenue associated with siting a powerplant could be used to offset the IURC costs, see Explanation of State Revenues, below.)

Attorney General's Office: The bill requires the Attorney General to appoint a deputy to represent the public and the public's interest in hearings dealing with siting proposals. The appointed deputy would be required to commission an independent consultant to assess the consequences of the facility or proposed facility on the environment. Depending on the number of facilities that seek certification, these provisions may increase the administrative costs of the Office of the Attorney General. Any increase in the Attorney General Office's administrative costs is expected to be covered using existing staff and resources.

In addition to these administrative costs, the IURC and Attorney General's Office may also experience additional costs if the siting fee paid (see Explanation of State Revenues, below) is not sufficient to cover the costs of any required independent environmental studies.

Explanation of State Revenues: *Siting Fee:* The bill requires an applicant to submit \$50,000 with the application for a siting certificate. Of this application fee, \$25,000 are to be used to fund a study of the environmental impact of a proposed siting. The IURC may use the remaining \$25,000 to offset any reasonable costs it may incur in processing the application. The bill also gives the IURC the discretion to use a portion of the fee revenue (\$6,250) to reimburse county or municipal zoning authorities for expenses they may have incurred in relation to the application. The bill requires the IURC to return any money not used to the applicant.

Penalty Provision: A person who begins to construct or operate a facility without obtaining the required certificate from the IURC would be liable for a civil penalty up to \$25,000 for each violation and each day the violation continues. The bill would require the IURC to adopt rules on distributing any fine revenue to local entities that may have been harmed by an offending operator. Unless otherwise distributed, any penalty would be deposited into the Public Utility Fund which is used for the operation of the IURC and the OUCC. It is not known in how many instances the IURC would impose monetary penalties.

The Indiana Utility Regulatory Commission and the Office of the Utility Consumer Counselor are funded by public utilities. The annual fee charged to utilities is based on the budgets of these two agencies. At the end of the fiscal year, if the total public utility fees in the Public Utility Fund plus the unspent balance of the Fund exceeds the total appropriations for the IURC and the OUCC (plus a \$250,000 contingency fund), then the IURC must compute each utility's share of the excess. This share is then deducted from any subsequent payment of the utility's public utility fees. In FY 2000, public utility fines and fees generated \$8,053,986.

Explanation of Local Expenditures: Local units of government will receive a notice of any hearings scheduled.

Explanation of Local Revenues: The bill allows the IURC to reimburse county and local zoning authorities up to \$6,250 for expenses incurred in relation to an application for a powerplant siting certificate. In the event that a person violates the provisions of the bill, local entities could receive a portion of the civil penalty imposed.

State Agencies Affected: Indiana Utility Regulatory Commission; Office of the Attorney General; Office of the Utility Consumer Counselor; Indiana Department of Environmental Management; Any other concerned state agency with regulatory authority.

Local Agencies Affected: Local units of governments.

Information Sources: Indiana Utility Regulatory Commission.